

To: "Tom Howard" [THoward@waterboards.ca.gov]
Cc: "Charles Hoppin" [CHoppin@waterboards.ca.gov]; Les Grober"
[lgrober@waterboards.ca.gov]; N=Peter Silva/OU=DC/O=USEPA/C=US@EPA;"Vicky Whitney"
[VWHITNEY@waterboards.ca.gov]; Vicky Whitney" [VWHITNEY@waterboards.ca.gov]
Bcc: CN=Tom Hagler/OU=R9/O=USEPA/C=US[]
From: CN=Karen Schwinn/OU=R9/O=USEPA/C=US
Sent: Mon 12/21/2009 8:07:24 PM
Subject: Re: Federal Bay-Delta Workplan
http://www.swrcb.ca.gov/waterrights/water_issues/programs/bay_delta/strategic_plan/docs/baydelta_workplan_final.pdf

Tom -

Thanks for your thoughtful reply regarding the Federal Bay-Delta Workplan. We've made some additional changes to the language (see below), though the ANPR remains as a vehicle that EPA will utilize to solicit input. After the holidays, we'd like to discuss with you and your staff how EPA's work can unfold in a way that adds to, rather than distracts from, the work of the Boards.

I expect the Workplan (now called "Interim Federal Action Plan for the California Bay-Delta") to be released tomorrow (or Wednesday given the weather in DC.) When you see it, I want to draw your attention to another paragraph in the water quality section describing an NAS review of water quality stressors. This is to begin after March 2010 when NAS completes its review of the RPAs in the BiOps. It is our intention to collaborate with NAS such that their water quality review and our work are as integrated as possible, especially any external/public information gathering. Feel free to give me a call if you want to discuss any of this. - Karen

A) Water Quality: EPA will assess the effectiveness of the current regulatory mechanisms designed to protect water quality in the Delta and its tributaries, including standards for toxics, nutrients, and estuarine habitat protection.

This assessment will be designed in consultation with the SWRCB and the Central Valley Regional Water Quality Control Board (CVRWQCB). In July 2008, the Boards adopted a Strategic Workplan for guiding their Bay-Delta activities.

http://www.swrcb.ca.gov/waterrights/water_issues/programs/bay_delta/strategic_plan/docs/baydelta_workplan_final.pdf

EPA will continue to support many of the significant activities in that Workplan through technical and financial assistance. Over the next several years, the State anticipates multiple point-source permit renewals, new State standards for the Southern Delta and lower San Joaquin River, and Total Maximum Daily Loads (TMDLs) for pesticides in the Central Valley and mercury in the Delta. EPA's assessment will complement these ongoing State activities as well as new requirements in the recent California legislation.

EPA will work with the State Board in issuing an Advanced Notice of Public Rulemaking to solicit public input on the array of water quality stressors and approaches to better protect water quality for all beneficial uses, including the synergistic effects of various stressors, which are difficult to address under the current regulatory framework. EPA will evaluate and synthesize the input received to assist California regulators as they consider amending water quality standards and requirements. As part of this effort, EPA will work with the Water Boards to consider whether permitted point and nonpoint source dischargers are imposing unacceptable stresses on aquatic resources and, if so, what additional controls are appropriate. EPA will collaborate with NAS as this assessment proceeds.

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From: "Tom Howard" <THoward@waterboards.ca.gov>
To: Karen Schwinn/R9/USEPA/US@EPA
Cc: Peter Silva/DC/USEPA/US@EPA, "Charles Hoppin" <CHoppin@waterboards.ca.gov>, "Les Grober" <lgrober@waterboards.ca.gov>, "Vicky Whitney" <VWHITNEY@waterboards.ca.gov>
Date: 12/16/2009 05:43 PM
Subject: Re: Federal Bay-Delta Workplan

Karen thanks for the chance to comment on your workplan proposal.

As you know there are a number of regulatory processes ongoing in the Delta - the NMFS BO, the USFWS BO, the water quality control plan update, the BDCP, the new Delta Council, TMDLs, ammonia review, and many smaller efforts. On the face of it, it does not appear as though there is a dearth of forums to address Delta issues. If anything the problem seems to be too many efforts competing for attention. In this environment it does not seem as though the initiation of a new regulatory process - the USEPA's Advance Notice of Proposed Rulemaking - is necessary. I appreciate that you propose that this effort will complement the state's activities, but I suspect it is more likely to diffuse resources than to focus them. I believe USEPA's efforts will be better used by participating in existing efforts than by initiating a new regulatory process. The help that USEPA describes in the workplan can all be provided without a rulemaking process.

In this regard one of our main concerns is that we are working on an aggressive schedule to first amend south Delta/San Joaquin River salinity and flow objectives and we will then turn to the remaining Delta objectives. Additionally the Central Valley Regional Board is evaluating ammonia objectives and other water quality parameters of concern. We need to be certain that our respective schedules line up to meet our short time lines and resources are not diverted to other matters.

Rather than proceed with a workplan commitment to initiate a proposed rulemaking I recommend that our staffs meet to go over the Water Boards' Delta workplan and to agree on specific tasks in that workplan for which USEPA could provide specific technical and monetary support. We developed this workplan with substantial public input and we believe it is comprehensive. Taking this approach the USEPA could provide a more specific description of its activities in the Federal workplan. One area of particular need identified in the Boards' workplan is the expansion of contaminate monitoring into the Delta. The SF Bay Regional Monitoring Program has been a great success for us both and its extension into the Delta would be a substantial accomplishment.

In your notice you refer to reviewing standards for toxics, nutrients and estuarine habitat protection. Our data indicate that the principal toxics issue is related to pesticides. We recommend that any review of this topic include the participation of USEPA pesticide program and the California Department of Pesticide Regulation. We also request further definition of what you mean regarding estuarine habitat protection. Lastly, I assume the review of

nutrients refers to the ammonia issue. As with so much else in the Delta this issue is already under extensive review and your participation in existing efforts would be a better use of time. Again, this issue is in the Delta workplan and our staffs should discuss specific projects.

Lastly, the top three issues often cited as affecting the Delta are pollution, water diversions and introduced species. Several years ago the State Water Board listed the Delta as impaired due to introduced species and as I recall this was done with USEPA's support. We are very interested in whether there is any logical method for moving forward with addressing this issue and we request USEPA's help in addressing this issue.

I copied Pete Silva and Charlie Hoppin on this communication because they both have expressed interest in USEPA's Federal workplan commitment.

I look forward to working with you and your staff on the Delta.

>>> <Schwinn.Karen@epamail.epa.gov> 12/11/2009 4:44 PM >>>
Hi all -

I've revised EPA's contribution to the Federal Bay-Delta Workplan. I'd be interested in your reaction. - Karen

Water quality: EPA will assess the effectiveness of the current regulatory mechanisms that are designed to protect water quality in the Delta and its tributaries, including standards for toxics, nutrients and estuarine habitat protection. This assessment will be designed in consultation with the State Water Resources Control Board and the Central Valley Regional Water Quality Control Board (?Water Boards?). In July 2008, the Water Boards adopted a ?Strategic Workplan for Activities in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary?. EPA will continue to support, technically and financially, many of the significant activities in the Water Boards? Strategic Workplan. Over the next several years, the State anticipates multiple point-source permit renewals, new state standards for the Southern Delta and lower San Joaquin River, and Total Maximum Daily Loads (TMDLs) for pesticides in the Central Valley and mercury in the Delta. EPA's assessment will complement these ongoing state activities, as well as new requirements in the recent California legislation.

EPA's assessment will be initiated via an Advanced Notice of Proposed Rulemaking (ANPR) that will summarize the water quality issues and solicit input on the array of water quality stressors and approaches to better protect water quality for all beneficial uses. Input will be specifically sought on the synergistic effects of various stressors, which are difficult to address under the current regulatory framework. EPA will evaluate and synthesize the input received and present recommendations to California regulators for their consideration in amending water quality standards and requirements. As part of this effort, EPA will work with the Water Boards to consider whether permitted point and nonpoint source dischargers are imposing unacceptable stresses on aquatic resources and, if so, what additional controls are appropriate. Findings will also be

presented to the NAS as they develop their recommendations.

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